UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/842,352	04/26/2001	Moshe Shavit	782.1099	6968

21171 7590 06/14/2007

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

EXAMINER	
HASHEM, LISA	
ART UNIT	PAPER NUMBER
2614	
MAIL DATE	DELIVERY MODE
06/14/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/842,352	SHAVIT ET AL.	
	Examiner	Art Unit	
	Lisa Hashem	2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 March 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-24* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-24* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-24 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-13 and 15-24 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by U.S. Patent No. 6,731,725 by Merwin et al, hereinafter Merwin.

Regarding claim 1, Merwin discloses a method for selecting a delivery mechanism for a message (col. 5, lines 56-60; col. 5, line 63 – col. 6, line 2; col. 7, line 23 – col. 8, line 39), comprising:

creating, by a sender (e.g. subscriber; caller) of the message,

a priority table of delivery devices (e.g. first, second, and third telephone numbers that are associated with different telephones) based on reachability of the message to a recipient (e.g. subscriber; caller; human recipient) of the message using each of the delivery devices prior to sending the message (col. 2, lines 13-36; col. 5, line 63 – col. 6, line 2; col. 6, lines 10-14 and 22-29; col. 7, lines 5-15; col. 7, line 66 – col. 8, line 1);

selecting a delivery device from the priority table having a highest priority for sending the message;

and continuing, to sequentially select another delivery device by adjusting the priority table responsive to a dynamic determination of availability of the recipient (e.g. dialing each predetermined number in a cascading fashion until a human recipient successfully answers the call) prior to sending the message and sending the message to the selected delivery device, until the recipient receives the message (e.g. when the human recipient answers the call to receive the message) (col. 1, lines 31-48; col. 2, lines 13-36; col. 6, lines 10-14 and 22-29; col. 7, lines 5-15; col. 7, line 66 – col. 8, line 1).

Regarding claim 2, the method of claim 1 mentioned above, wherein Merwin further discloses determining a reachability of a recipient before sending the message to the selected delivery device (e.g. when the human recipient answers the call to receive the message) (col. 2, lines 13-36; col. 6, lines 10-14 and 22-29; col. 7, lines 5-15; col. 7, line 66 – col. 8, line 1).

Regarding claim 3, the method of claim 1 mentioned above, wherein Merwin further discloses if the message has not been delivered to the recipient after a last delivery device has been selected, selection of delivery devices begins again, starting with the highest priority delivery device in the priority table, after a predetermined time has expired (col. 2, lines 13-36; col. 5, line 63 – col. 6, line 2; col. 6, lines 10-14 and 22-29; col. 7, lines 5-15; col. 7, line 66 – col. 8, line 1).

Regarding claim 4, the method of claim 1 mentioned above, wherein Merwin further discloses the priority table is configured in a way that all messages are sent to the recipient using

a particular delivery device (e.g. telephone) (col. 2, lines 13-36; col. 7, lines 5-15; col. 8, lines 40-52).

Regarding claim 5, the method of claim 4 mentioned above, wherein Merwin further discloses the priority table comprises a name/ID of the recipient, the delivery device, and a delivery address for the delivery device (col. 7, line 66 – col. 8, line 39).

Regarding claim 6, the method of claim 1 mentioned above, wherein Merwin further discloses the priority table is configured in a way that a delivery device is selected according to time of day and day of week (col. 2, lines 13-36; col. 5, line 27 – col. 6, line 38).

Regarding claim 7, the method of claim 6 mentioned above, wherein Merwin further discloses the priority table comprises a name/ID of the recipient, a list of delivery times and dates, delivery devices corresponding to the delivery times and dates, and delivery addresses corresponding to the delivery devices (col. 2, lines 1-36; col. 5, line 27 – col. 6, line 38).

Regarding claim 8, the method of claim 1 mentioned above, wherein Merwin further discloses the priority table is configured in a way that a first delivery device selected to send a current message is the same device used to deliver a previous message to the recipient, and the previous message was delivered within a predetermined amount of time before the current message is sent (col. 5, line 27 – col. 6, line 28; col. 6, lines 52-58).

Regarding claim 9, the method of claim 1 mentioned above, wherein Merwin further discloses the priority table is configured in a way that a first delivery device selected to send a current message is a same type of device as the type of device used by the sender to create the message (col. 2, lines 13-36; col. 5, line 27 – col. 6, line 28; col. 8, lines 40-52).

Regarding claim 10, the method of claim 1 mentioned above, wherein Merwin further discloses the sender sends a message to one or more recipients and creates a priority table for each recipient (col. 5, line 27 – col. 6, line 28).

Regarding claim 11, the method of claim 1 mentioned above, wherein Merwin further discloses the delivery device comprises one of a 3G wireless device, a mobile phone, a fixed telephone, a personal computer, a facsimile device, a pager, and a personal digital assistant (col. 8, lines 40-52).

Regarding claim 12, the method of claim 1 mentioned above, wherein Merwin further discloses a format of the message comprises one of a voice message, a text message, an electronic mail message, an instant message, a short message service message, and a video message (col. 5, lines 56-60; col. 7, lines 10-12).

Regarding claim 13, Merwin discloses a system (Figs: 1, 2) for selecting a delivery mechanism of a message (col. 5, lines 56-60; col. 5, line 63 – col. 6, line 2; col. 7, line 23 – col. 8, line 39), comprising:

a preferences and profile database (Fig. 1, 21) containing a priority table, created by a sender (e.g. subscriber; caller) of the message, of delivery devices (e.g. first, second, and third telephone numbers that are associated with different telephones) of a recipient (e.g. subscriber; caller; human recipient) of the message prior to sending the message, the priority table being created based on reachability of the message to the recipient (col. 2, lines 13-36; col. 5, line 63 – col. 6, line 2; col. 6, lines 10-14 and 22-29; col. 7, lines 5-15; col. 7, line 66 – col. 8, line 1); and

a priority delivery selection logic unit (Fig. 2: 12) selecting a delivery device from the priority table having a highest priority for sending the message, and continuing, to sequentially select

another delivery device by adjusting the priority table responsive to a dynamic determination of availability of the recipient (e.g. dialing each predetermined number in a cascading fashion until a human recipient successfully answers the call) prior to sending the message and sending the message to the selected delivery device, until the recipient receives the message (e.g. when the human recipient answers the call to receive the message) (col. 1, lines 31-48; col. 2, lines 13-36; col. 6, lines 10-14 and 22-29; col. 7, lines 5-15; col. 7, line 66 – col. 8, line 1).

Regarding claim 15, the system of claim 13 mentioned above, wherein Merwin further discloses determining a reachability of the recipient before sending the message to the selected delivery device (e.g. when the human recipient answers the call to receive the message) (col. 2, lines 13-36; col. 6, lines 10-14 and 22-29; col. 7, lines 5-15; col. 7, line 66 – col. 8, line 1).

Regarding claim 16, Merwin discloses a computer-readable storage having a program stored therein for controlling a computer (Figs: 1, 2) to select a delivery mechanism for a message (col. 5, lines 56-60; col. 5, line 63 – col. 6, line 2; col. 7, line 23 – col. 8, line 39) comprising:

creating, by a sender (e.g. subscriber; caller) of the message, a priority table of delivery devices (e.g. first, second, and third telephone numbers that are associated with different telephones) based on reachability of the message to a recipient (e.g. subscriber; caller; human recipient) of the message using each of the delivery devices prior to sending the message (col. 2, lines 13-36; col. 5, line 63 – col. 6, line 2; col. 6, lines 10-14 and 22-29; col. 7, lines 5-15; col. 7, line 66 – col. 8, line 1);

selecting a delivery device from the priority table having a highest priority for sending the message; and

continuing, to sequentially select another delivery device by adjusting the priority table responsive to a dynamic determination of availability of the recipient (e.g. dialing each predetermined number in a cascading fashion until a human recipient successfully answers the call) prior to sending the message and sending the message to the selected delivery device, until the recipient receives the message (e.g. when the human recipient answers the call to receive the message) (col. 1, lines 31-48; col. 2, lines 13-36; col. 6, lines 10-14 and 22-29; col. 7, lines 5-15; col. 7, line 66 – col. 8, line 1).

Regarding claim 17, the computer-readable storage having the program of claim 16, wherein Merwin further discloses determining a reachability of the recipient before sending the message to the selected delivery device (col. 1, lines 31-48; col. 2, lines 13-36; col. 6, lines 10-14 and 22-29; col. 7, lines 5-15; col. 7, line 66 – col. 8, line 1).

Regarding claim 18, the computer-readable storage having the program of claim 16, wherein Merwin further discloses if the message has not been delivered to the recipient after a last delivery device has been selected, selection of delivery devices begins again, starting with the highest priority delivery device in the priority table, after a predetermined time has expired (col. 2, lines 13-36; col. 5, line 63 – col. 6, line 2; col. 6, lines 10-14 and 22-29; col. 7, lines 5-15; col. 7, line 66 – col. 8, line 1).

Regarding claim 19, Merwin discloses a method of selecting a delivery device for a message (col. 5, lines 56-60; col. 5, line 63 – col. 6, line 2), comprising:

receiving priority tables of delivery devices (e.g. first, second, and third telephone numbers that are associated with different telephones), respectively, for each of a plurality of message recipients (e.g. subscribers; callers; human recipients), the priority tables being customized for

each message recipient (e.g. the Store and Redelivery System (SRS) can be accessed and utilized by a plurality of subscribers to set up priority tables) (col. 2, lines 13-36; col. 5, lines 35-40; col. 5, line 63 – col. 6, line 2; col. 6, lines 22-29 and 37-38; col. 7, lines 23-31; col. 7, line 66 – col. 8, line 1; col. 8, lines 16-28);

allowing the priority tables of the delivery devices to be dynamically changed for each message recipient;

selecting, for each message to be transmitted, a delivery device having a highest priority from a corresponding priority table and determining whether the recipient of the message to be transmitted is available on the selected device prior to sending the message; and

continuing, to sequentially select another delivery device by adjusting the corresponding priority table responsive to a dynamic determination of availability of the recipient and sending the message to be transmitted to the selected delivery device (e.g. dialing each predetermined number in a cascading fashion until a human recipient successfully answers the call), until the message recipient is available on the selected device (e.g. when the human recipient answers the call to receive the message) (col. 1, lines 31-48; col. 2, lines 13-36; col. 6, lines 10-14 and 22-29; col. 7, lines 5-15; col. 7, line 66 – col. 8, line 1).

Regarding claim 20, Merwin discloses a method for delivering a message (col. 5, lines 56-60; col. 5, line 63 – col. 6, line 2), comprising:

creating a priority table of delivery devices (e.g. first, second, and third telephone numbers that are associated with different telephones) of a recipient (e.g. subscriber; caller; human recipient) of the message prior to sending the message (col. 2, lines 13-36; col. 6, lines 22-29 and 37-38; col. 7, line 66 – col. 8, line 1; col. 8, lines 16-28); and

adaptively cycling through the delivery devices listed in the priority table responsive to a dynamic determination of availability of the recipient (e.g. locate the human recipient) to ensure initial delivery of the message to the recipient without requiring resending of a duplicate message in accordance with adjusted priorities of the priority table based on said dynamic determination (col. 1, lines 31-48; col. 2, lines 13-36; col. 6, lines 10-14 and 22-29; col. 7, lines 5-15; col. 7, line 66 – col. 8, line 1).

Regarding claim 21, Merwin discloses a method for delivering a message (col. 5, lines 56-60; col. 5, line 63 – col. 6, line 2), comprising: creating a priority table of delivery devices (e.g. first, second, and third telephone numbers that are associated with different telephones) of a recipient (e.g. subscriber; caller; human recipient) of the message prior to sending the message (col. 2, lines 13-36; col. 6, lines 22-29 and 37-38; col. 7, line 66 – col. 8, line 1; col. 8, lines 16-28);

cycling through verification of the delivery devices one at a time responsive to priorities of the priority table adjusted in accordance with a dynamic determination of availability of the recipient; and changing priorities of the priority table responsive to prior deliveries between cycles in accordance with the dynamic determination (col. 1, lines 31-48; col. 2, lines 13-36; col. 6, lines 10-14 and 22-29 and 36-38; col. 7, lines 5-15; col. 7, line 66 – col. 8, line 1).

Regarding claim 22, Merwin discloses a message delivery method (col. 5, lines 56-60; col. 5, line 63 – col. 6, line 2), comprising: allowing a sender (e.g. subscriber; caller) of a message to prioritize multiple delivery destinations (e.g. first, second, and third telephone numbers; predetermined telephone numbers) associated with a recipient (e.g. subscriber; caller; human recipient) prior to sending the message (col. 2, lines 13-36; col. 6, lines 22-29 and 37-38);

and sending the message to at least one of the multiple delivery destinations in accordance with the prioritization by the sender, where the prioritization is adaptively changed based on message delivery conditions including a message delivery success corresponding to the multiple delivery destinations (e.g. dialing each predetermined number in a cascading fashion until a human recipient successfully answers the call) based on a dynamic determination of availability of the recipient (e.g. when the human recipient answers the call to receive the message) prior to sending the message (col. 1, lines 31-48; col. 2, lines 13-36; col. 6, lines 10-14 and 22-29; col. 7, lines 5-15).

Regarding claim 23, Merwin discloses a method of delivering a message (col. 5, lines 56-60; col. 5, line 63 – col. 6, line 2), comprising:

prioritizing delivery mechanisms including delivery destinations (e.g. first, second, and third telephone numbers; predetermined telephone numbers) prior to delivering the message to a recipient (e.g. subscriber; caller; human recipient) in accordance with an input by a sender (e.g. subscriber; caller) of the message (col. 2, lines 13-36; col. 6, lines 22-29 and 37-38); and allowing the sender to select at least one delivery mechanism including a corresponding delivery destination for initial delivery of the message (col. 7, line 66 – col. 8, line 1; col. 8, lines 16-28), sequentially selecting from the prioritized delivery mechanisms adjusted based on a dynamic determination of availability of the recipient via the prioritized delivery mechanisms (e.g. dialing each predetermined number in a cascading fashion until a human recipient successfully answers the call) and sending the message (col. 1, lines 31-48; col. 2, lines 13-36; col. 6, lines 10-14 and 22-29; col. 7, lines 5-15).

Regarding claim 24, Merwin discloses a method for selecting a delivery mechanism for a message, comprising:

creating a list of delivery destinations having a first order of devices (e.g. first, second, and third telephone numbers that are associated with different telephones) of a recipient (e.g. subscriber; caller; human recipient) based on an input by a sender (e.g. subscriber; caller) for sending a message (col. 2, lines 13-36; col. 6, lines 22-29 and 37-38; col. 7, line 66 – col. 8, line 1; col. 8, lines 16-28); and

dynamically adjusting the first order to create a second order of the devices (e.g. the second telephone number has the highest priority among the rest of the predetermined telephone numbers) prior to sending the message based on a current determination of availability of the recipient (e.g. dialing each predetermined number in a cascading fashion until a human recipient successfully answers the call) and sending the message based on the second order (col. 1, lines 31-48; col. 2, lines 13-36; col. 6, lines 10-14 and 22-29; col. 7, lines 5-15).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Merwin, as applied to claim 13, and in further view of Agarwal.

Regarding claim 14, the system of claim 13 mentioned above, wherein Merwin further discloses the priority delivery selection logic unit (Fig. 2: 12) and the preferences and profiles database (Fig. 1, 21) are located within a store and forward portion of a voice messaging system (Figs: 1, 2) (col. 7, line 23 – col. 8, line 39).

Merwin clearly discloses a voice messaging system. However, Merwin does not disclose a multimedia messaging system.

Agarwal discloses a system for selecting a delivery mechanism of a message, comprising: a preferences and profile database containing a priority table (Fig. 1, 21), created by a system administrator, of delivery devices of a recipient of the message prior to sending the message, the priority table being created based on reachability of the message to the recipient; and a priority delivery selection logic unit selecting a delivery device from the priority table having a highest priority for sending the message, and continuing, to sequentially select another delivery device by adjusting the priority table responsive to a dynamic determination of availability of the recipient and sending the message to the selected delivery device, until the recipient receives the message (section 0143 –0153; 0162). Wherein Agarwal clearly discloses the priority delivery

selection logic unit and the preferences and profiles database are located within a store and forward portion of a multimedia messaging system (Figs: 1, 7) (section 0089; section 0143 – 0153; 0162).

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the system of Merwin to include a multimedia messaging system as taught by Agarwal. One of ordinary skill in the art would have been lead to make such a modification to provide a variety of recipient devices (e.g. pagers, telephones) that are capable of handling different media (e.g. text, audio) and to send messages to a recipient in those media forms in a multimedia information services system.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892 Form.

7. Any response to this action should be mailed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Or faxed to:

(571) 273-8300 (for formal communications intended for entry)

Or call:

(571) 272-2600 (for customer service assistance)

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lisa Hashem whose telephone number is (571) 272-7542. The examiner can normally be reached on M-F 8:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-2600.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

lh
June 1, 2007

FAN TSANG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600